c.s. 100/ **SINGLE BENCH**

(3) (1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

WRIT PETITION NO. 3391 /2005

PETITIONER

MANISH KUMAR AGRAWAL, SON OF LATE SHRI MAHESH PRASAD AGRAWAL, AGED ABOUT 28 YEARS, RESIDENT OF KAWARDHA, MUDPAR, NEAR BUDHA MAHADEV MANDIR, KAWARDHA, DISTRICT KABEERDHAM (CG)

VERSUS

RESPONDENTS

1. STATE OF CHHATTISGRH, THROUGH - THE SECRETARY, DEPARTMENT OF SCHOOL EDUCATION, DAU KALYAN SINGH BHAWAN, RAIPUR (C.G.)

2. THE DIRECTOR, PUBLIC INSTR. DORECTORATE, RAIPUR (C.G.)

3. THE DISTRICT EDUCATION OFFICER, DISTRICT. RAJNANDGAON (C.G.)

4. PRINCIPAL, GOVERNMENT HIGHER SECONDARY SCHOOL, UDAIPUR, RAJNANDGAON (CHHATTISGARH)

P.R. No. 3429/05 3429 Presented by Shri Rakesh Pandey dated 22/7/05

शपथ आयुक्त एम.के. शुक्ला बिलासपुर (छ.ग.) बिलासपुर तहसील कोर्ट

WRIT PETITION UNDER ARTICLE 226 /227 OF THE CONSTITUTION OF INDIA,

(44)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 3391 of 2005

Petitioner: Manish Kumar Agrawal

Versus

Respondents: State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Rakesh Pandey, Advocate for the petitioner.

Smt. Anju Ahuja, Deputy Govt. Advocate for the respondents.

ORDER

(Passed on this 28th day of February, 2007)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. By this petition the petitioner challenges the validity of the order dated 8.6.2004 (Annexure P/1) whereunder, the application of the petitioner for appointment on compassionate basis, has been rejected by the respondent No.3, on the ground of delay i.e. not submitted within a period of three month, from the date of death of the employee.

2. According to the petitioner, his father namely Shri Mahesh Prasad Agrawal, while working as Accountant in the Government Higher Secondary School, Udaipur, District- Rajnandgaon, died in harness on 11.8.2001. Thereafter, the petitioner, being son i.e. dependent and legal heir, approached the respondent No.4 on 10.10.2001 and 15.11.2001 for considering his case for appointment. The petitioner also sent an application on 5.12.2001 (Annexure P/5) by registered letter to the respondents No. 3 and 4.

(45)

3. The District Education Officer, Rajnandgaon vide order dated 8.6.2004 (Annexure P/1), which is impugned herein, has rejected the application of the petitioner on the ground that the application was filed after prescribed period of three months. The District Education Officer has completely ignored the fact that within a period of one month the petitioner has approached the concerned Principal for his appointment. May be the petitioner was not aware of the fact that the application was to be made to some other officer. Even otherwise, if the date of application was 5.12.2001 (Annexure P/5) and the application sent by registered post was received on 24.12.2001, if the receipt of the application by registered post is taken into consideration, the delay appears to be only about a week.

4. The respondent authority ought to have considered the earlier application dated 5.12.2001, filed with the respondent No.4, for the purpose of limitation but the same has not been done.

5. In view of the foregoing, the order dated 8.6.2004 (Annexure P/1) and 24.12.2001 (Annexure P/7) deserves to be and are quashed. Accordingly, the respondents/authorities are directed to consider the case of the petitioner for compassionate appointment, in accordance with their own circular. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur